

DEPARTMENT OF TRANSPORTATION**AUDITS AND INVESTIGATIONS**

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May 6, 2010

Mr. Ronald De Carli
Executive Director
San Luis Obispo Council of Governments
1150 Osos Street, Suite 202
San Luis Obispo, CA 93401

Re: San Luis Obispo Council of Governments
Audit of Indirect Cost Allocation Plan for FY 2008/09
File Number: P1591-0047

Dear Mr. De Carli:

We have audited the San Luis Obispo Council of Governments' (SLOCOG) Indirect Cost Allocation Plan (ICAP) for the fiscal year (FY) ended June 30, 2009, to determine whether the ICAP is presented in accordance with 2 Code of Federal Regulations, (CFR) Part 225 and the Department of Transportation's (Department) Local Programs Procedures (LPP) 04-10. SLOCOG management is responsible for the fair presentation of the ICAP. SLOCOG proposed an indirect cost rate of 66.16 percent of total direct salaries and wages, plus fringe benefits.

Our audit was conducted in accordance with the Standards for Performance Audits set forth in the *Government Auditing Standards* issued by the Comptroller General of the United States of America. The audit was less in scope than an audit performed for the purpose of expressing an opinion on the financial statements of SLOCOG. Therefore, we did not audit and are not expressing an opinion on the SLOCOG's financial statements.

The standards require that we plan and perform the audit to obtain reasonable assurance about whether the data and records reviewed are free of material misstatement, as well as material noncompliance with fiscal provisions relative to the ICAP. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the data and records reviewed. An audit also includes assessing the accounting principles used and significant estimates made by SLOCOG, as well as evaluating the overall presentation.

The accompanying ICAP was prepared on a basis of accounting practices prescribed in the 2 CFR Part 225 and the Department's LPP 04-10, and is not intended to present the results of operations of SLOCOG in conformity with generally accepted accounting principles.

The scope of the audit was limited to select financial and compliance activities. The audit consisted of a recalculation of the ICAP and a limited review of SLOCOG's Overall Work Program (OWP) for FY 2008/09. A review of SLOCOG's single audit report for the FY ended June 30, 2007, and June 30, 2008, inquiries of SLOCOG personnel and reliance placed on the single audit report for the FY ended June 30, 2007, and prior audit field work performed by the Department in September 2007. We believe that our audit provides a reasonable basis for our conclusion.

Because of inherent limitations in any financial management system, misstatements due to error or fraud may occur and not be detected. Also, projections of any evaluation of the financial management system to future periods are subject to the risk that the financial management system may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

The results of this audit were communicated to Sue Hall, SLOCOG Administrative Services Officer, on October 26, 2009. Our findings and recommendations take into consideration SLOCOG's response to our draft findings dated October 27, 2009. Our findings and recommendations, a summary of SLOCOG's response and our analysis of the response are detailed below. See Attachment I for a copy of SLOCOG's responses.

AUDIT RESULTS

Based on audit work performed, SLOCOG's ICAP for the FY ended June 30, 2009, is presented in accordance with 2 CFR Part 225 and LPP 04-10. The approved indirect cost rate is 66.16 percent of total direct salaries and wages, plus fringe benefits. The approval is based on the understanding that a carry forward provision applies and no adjustment will be made to previously approved rates.

SLOCOG requested a provisional rate of 51.99 percent on August 17, 2009. Audits and Investigations approved the provisional rate on August 26, 2009. As agreed in the provisional rate request, within 30 days of issuance of this audit report SLOCOG must reconcile all prior reimbursed claims under the provisional rate with the final approved rate. SLOCOG will include any underpayments on the next billing to the Department. Interest may not be claimed on the underpayments.

Audit Findings

Finding 1:

Unresolved prior finding. This finding was reported in our audit report issued on June 18, 2008. The indirect cost applied in the OWP by work element does not match to the rate proposed in the ICAP.

Section 6 of the Metropolitan Planning Organization OWP Guidance states, in part, that the Work Elements should contain a detailed fund source, type and amounts for each work element.

The amount of indirect costs per work element represented in the OWP is inconsistent with the indirect costs represented in the ICAP, which results in misstated budgets for each work element.

Recommendation

In the future, SLOCOG's ICAP and OWP should be developed to correlate and should trace to one another.

SLOCOG's Response

SLOCOG concurs with audit finding.

Analysis of Response

The finding will stand as stated.

Finding 2

Unresolved prior finding. This finding was reported in our audit report issued on June 18, 2008. The Executive Director's timesheets are not properly signed by an authorized approver.

49 CFR 18.20 (b)(3) states that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

Because the Executive Director is in a position to exert direct and significant influence over his staff, having his timesheets approved by a subordinate is an ineffective control measure.

Recommendation

We recommend that SLOCOG board designate a board member(s) to sign the Executive Director's timesheets to ensure that his time records undergo the same review and approval process as other SLOCOG personnel.

SLOCOG's Response

SLOCOG concurs with audit finding under protest. The Executive Director is a contract employee who is exempt from submitting timesheets for payroll purposes. Timecards are used strictly for allocation of hours to work elements and his time is not tracked for approval purposes. The Executive Directors responsibilities include certification that requests for reimbursement are consistent with the terms of the Master Fund Agreement.

Analysis of Response

Since the Executive Director charges time directly to projects, the time he records must be accountable to some person/s that are above his authority. The finding will stand as stated.

Finding 3

Regional Surface Transportation Program (RSTP) Exchange/State Highway Account (SHA) Funds were misused for the acquisition of SLOCOG's current office building at 1114 Marsh Street in San Luis Obispo.

The Department Legal Division has concluded the use of SHA funds is in violation of Article XIX, Section 1 (a) of the California Constitution, and as such is not an appropriate expenditure of these funds.

Recommendation

SLOCOG must repay all RSTP Exchange Funds that were used in the purchase of the office building at 1114 Marsh Street.

SLOCOG's Response

SLOCOG strongly disagrees with this finding and are awaiting response from the Department.

Analysis of Response

Since the Departments Legal Division has determined the SHA funds were used in violation of Article XIX, Section 1(a) of the California Constitution, the finding will stand as stated.

This report is intended solely for the information of SLOCOG, Department Management, the California Transportation Commission and the Federal Highway Administration (FHWA). However, this report is a matter of public record and will be included on the "Reporting Transparency in Government" website.

Please retain the approved ICAP for your files. Copies were sent to the Department's District 5, the Department's Division of Accounting and the FHWA. If you have any questions, please contact Lisa Moreno, Auditor, at (916) 323-7885 or Cliff Vose, Audit Manager, at (916) 323-7917.



MARYANN CAMPBELL-SMITH
Chief, External Audits – Local Governments

Attachments

- c: Brenda Bryant, Director, Financial Services, Federal Highway Administration
Sue Kiser, Director, Planning and Air Quality, Federal Highway Administration
James Ogbonna, Chief, Rural Transit and Intercity Bus Branch, Division of Mass Transportation
David Saia, LAPM/LAPG Coordinator, Caltrans Division of Local Assistance
Jenny N. Tran, Associate Account Analyst, Local Program Accounting Branch, Local Assistance
Andrew Knapp, Associate Transportation Planner, Regional and Interagency Planning, Division of Transportation Planning
Michael Giuliano, Senior Transportation Engineer, District 5
Cindy Utter, Regional Planner, District 5
P1591-0047

San Luis Obispo Council of Governments



Regional Transportation Planning Agency
Metropolitan Planning Organization
Rideshare Program / Census Data Affiliate
Service Authority for Freeways and Expressways

Arroyo Grande
Atascadero
Grover Beach
Morro Bay
Paso Robles
Pismo Beach
San Luis Obispo
San Luis Obispo County

January 20, 2010

MaryAnn Campbell-Smith
Chief of External Audits
Department of Transportation
Audits and Investigations
P.O. Box 942874
Sacramento, CA 94274-0001

Dear Ms. Campbell-Smith:

On Thursday, January 14, 2010, SLOCOG received the Final Draft with instructions to respond within five working days. SLOCOG appreciates the opportunity to respond to the audit findings.

Finding 1

The indirect cost rate listed in the OWP does not match to the rate proposed in the ICAP.

- Section 6 of the Metropolitan Planning Organization OWP Guidance states, in part, that the Work Elements should contain a detailed fund source, type and amounts for each work element.
- The amount of indirect costs per work element represented in the OWP is inconsistent with the indirect costs represented in the indirect cost allocation proposal.

Recommendation:

- In future ICAP's and OWP's they should be developed to correlate and should trace to one another.

SLOCOG Response

- SLOCOG agrees with the finding.
- During the initial review of the audit, an incorrect number was found on the "actual indirect costs" line on the carry-forward spreadsheet. The correction made the numbers not match. In the future, the Indirect Cost Rate Allocation Plan will be reviewed by the Accountant prior to submittal.

Finding 2

The Executive Director's timesheets are not properly signed.

- 49 CFR 18.20 (b)(3) states that effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
- Because the Executive Director is in a position to exert direct and significant influence over his staff, having his timesheets approved by a subordinate is an ineffective control measure.

Recommendation:

- We recommend that SLOCOG Board designate a Board member(s) to sign the Executive Director's timesheets to ensure that his time records undergo the same review and approval process as other SLOCOG personnel.

SLOCOG Response

- SLOCOG agrees with the finding under protest. A SLOCOG Executive Committee member will sign the Executive Director's timecards.
- The Executive Director is a contract employee who is exempt from submitting a timecard for payroll purposes. His completion of a time card is strictly for allocation of hours to work elements, and his time is not tracked for approval purposes.
- In addition, the Executive Director responsibilities include certification that requests for reimbursement are consistent with the terms of the Master Fund Transfer Agreement, work is completed in accordance with the approved OWP and state and federal matching requirements have been met.

Finding 3

State RSTP Exchange Funds were misused in the purchase of SLOCOG's current office building at 1114 Marsh Street in San Luis Obispo.

- The Department Legal Division has concluded the use of the RSTP Exchange Funds is in violation of Article XIX, Section 1 (a) of the California Constitution.

Recommendation:

- SLOCOG must repay all RSTP Exchange Funds that were used in the purchase of the office building at 1114 Marsh Street.

SLOCOG Response

- SLOCOG strongly disagrees with this finding.
- SLOCOG's Legal Counsel response (dated October 2, 1009) is attached stating the use of SHA funds for the purchase of the Marsh Street location was an appropriate expenditures of SHA funds.
- SLOCOG is awaiting a response from Caltrans.

If you have any questions regarding these responses, please feel free to contact Ronald L. De Carli, Executive Director, at 805-781-4219.

Sincerely,

Thomas O'Malley
SLOCOG Board President

VI. INDIRECT COST PLAN

2008/2009 SAN LUIS OBISPO COUNCIL OF GOVERNMENTS (SLOCOG) INDIRECT COST PLAN

The indirect cost rate contained herein is for use on grants, contracts, and other agreements with the Federal Government and California Department of Transportation (Caltrans), subject to the conditions in Section II. This plan was prepared by SLOCOG and approved by Caltrans

Section I: Rates

Rate Type	Effective Period	Rate*	Applicable To
Fixed with carry-forward	7-1-2008 through 6-30-2009	66.16%	All Programs

*Base: Total Direct Salaries and Wages plus fringe benefits

Section II: General Provisions

A. Limitations:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract, or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its indirect cost pool as finally accepted: such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as indirect costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent treatment; (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government or Caltrans. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government or Caltrans; (5) Prior actual costs used in the calculation of the approved rate are contained in the grantees' Single Audit, which was prepared in accordance with OMB Circular A-133. If a Single Audit is not required to be performed, then audited financial statements should be used to support the prior actual costs; and (6) The estimated costs used in the calculation of the approved rate are from the grantee's approved budget in effect at the time of approval of this plan.

B. Accounting Changes:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs, which affect the amount of reimbursement resulting from the use of this Agreement, require prior approval of the authorized representative of the cognizant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from indirect to direct. Failure to obtain approval may result in cost disallowances.

C. Fixed Rate with Carry Forward:

The fixed rate used in this Agreement is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined – either by the grantee's Single Audit or if a Single Audit is not required, then by the grantee's audited financial statements – any differences between the application of the fixed rate and actual costs will result in an over or under recovery of costs. The over or under recovery will be carried forward, as an adjustment to the calculation of the indirect cost rate, to the second fiscal year subsequent to the fiscal year covered by this plan.

D. Audit Adjustments: Immaterial adjustments resulting from the audit of information contained in this plan shall be compensated for in the subsequent indirect cost plan approved after the date of the audit adjustment. Material audit adjustments will require reimbursement from the grantee.

E. Use by Other Federal Agencies: Authority to approve this agreement by Caltrans has been delegated by the Federal Highway Administration, California Division. The purpose of this approval is to permit subject local government to bill indirect costs to Title 23 funded projects administered by the Federal Department of Transportation (DOT). This approval does not apply to any grants, contracts, projects, or programs for which DOT is not the cognizant Federal agency.

The approval will also be used by Caltrans in State-only funded projects.

F. Other:

If any Federal contract, grant, or other agreement is reimbursing indirect costs by a means other than the approved rate(s) in the Agreement, the organization should (1) credit such costs to the affected programs, and (2) apply the approved rate(s) to the appropriate base to identify the proper amount of indirect costs allocable to these programs.

G. Rate Calculation:

FY 2008/2009 Budgeted Indirect Costs:	\$774,141.00 (see indirect cost calculation detail page OWP-96)
Carry Forward from FY 2006/07	192,236.00 (carryforward calculation page OWP-96)
Estimated (Adjusted) FY 2008/2009 Indirect Costs	966,377.00 (see indirect expenses page OWP-96)
FY 2008/2009 Budgeted Direct Salaries plus fringe benefits:	1,460,576.00 (see indirect cost calculation detail page OWP-95)
Fiscal Year 2008/2009 Indirect Cost Rate	66.16% (see 2008/2009 indirect cost rate page OWP-96)

CERTIFICATION OF INDIRECT COSTS:

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal to establish billing or final indirect costs rates for fiscal year 2008/2009 (July 1, 2008 to June 30, 2009) are allowable in accordance with the requirements of the Federal and State award(s) to which they apply and OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal and State awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated, as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal Government and Caltrans will be notified of any accounting changes that would affect the fixed rate.

I declare that the foregoing is true and correct.

Governmental Unit: San Luis Obispo Council of Governments

Sign

Approved and Submitted by
Name: Ronald L. De Carli

Prepared by:
Name: Sue Hall

Title: Executive Director

Title: Administrative Services Officer

Date of Execution: 6/30/ 2009

Phone: (805) 781-4255

INDIRECT COST RATE APPROVAL

The State DOT has reviewed this indirect cost plan and hereby approves the plan.

Signature

Reviewed and approved by:
(Name of Audit Manager) CLIFFORD R Vose

Title: Senior Mgmt Auditor

Date: 5 MAY 10

Phone Number (916) 323-7917

Signature

Reviewed and approved by:
(Name of Auditor)

Title: Senior Auditor

Date: 5/5/10

Phone Number (805) 337-2455